

REMARKS

Claims 22, 23, 30, and 31 were rejected under 35 U.S.C. §102(e) as being anticipated by Shrivastava et al., U.S. Patent No. 6,373,089. Claims 22 and 30 were rejected under 35 U.S.C. §102(b) as being anticipated by Jost et al., U.S. Patent No. 5,705,838, or Narita, U.S. Patent No. 5,859,451.

Claim 22 has been amended to provide that the second conductive layer contacts the first and second diffusion regions. The applied references do not disclose that a second conductive layer contacts first and second diffusion regions.

In particular, in Shrivastava et al., the second conductive layer 62, according to the Examiner, does not contact either the first diffusion region 18, according to the Examiner, or the second diffusion region 20, according to the Examiner, (see Fig. 2a).

Moreover, Fig. 5 of Jost et al. which, according to the Examiner, discloses all of the features of claim 22, does not appear to disclose a second conductive layer contacting first and second diffusion regions. Instead, Jost et al. discloses two conductive layers contacting active regions. Jost et al. discloses a first electrically conductive layer 36 filling openings 34 in insulating layer 28 and contacting second active region 24, (Fig. 5; column 3, lines 41-67). In addition, Jost et al. discloses a capacitor storage node electrically conductive layer 38 in openings 32 in the insulating layer 28, and contacting first active region 26, (Fig. 5; column 4, lines 1-7).

Finally, Fig. 1 of Narita which, according to the Examiner, discloses all of the features of claim 22, does not appear to disclose a second conductive layer contacting first and second diffusion regions. Instead, Narita discloses a separate storage electrode 34 and a bit line 42 in separate openings 30 and 44, respectively, through the lower interlayer insulator layer 28.

The storage electrode 34 and bit line 42 contact a barrier layer 32, formed over drain region 18, and a source region 20, respectively, (Fig. 1; column 3, lines 28-67).

It is respectfully submitted that claim 22, and claims 23, 30, and 31 dependent thereon, are not anticipated by the prior art and these claims should be allowed.

In response to the Office Action, claims 24 and 27 have been rewritten in independent form.

Claims 1-13, withdrawn from consideration by the Examiner as non-elected claims, are being cancelled, without prejudice or disclaimer, to save an additional independent claim fee which would otherwise be due because of the addition of independent claims 24 and 27. Applicant reserves the right to file a Divisional Application containing claims 1-13. Claims 14-21 were also withdrawn from consideration by the Examiner as non-elected claims and were cancelled, without prejudice or disclaimer, in an amendment filed on April 30, 2004, to save an additional independent claim fee which would have been due because of the addition of independent claim 22. Applicant reserves the right to file a Divisional Application containing claims 14-21.

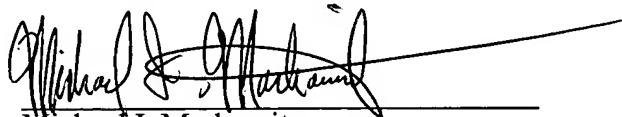
CLOSING

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that independent claims 22, 24, and 27 are in condition for allowance, as well as those claims dependent therefrom. Passage of this case to allowance is earnestly solicited.

However, if for any reason the Examiner should consider this application not to be in condition for allowance, he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper, not fully covered by an enclosed check, may be charged on Deposit Account 50-1290.

Respectfully submitted,



Michael I. Markowitz
Reg. No. 30,659

CUSTOMER NO.: 026304

TELEPHONE NO.: (212) 940-8687
FAX NO.: (212) 940-8986/7
ATTORNEY DOCKET NO.: NECW 19.349
MIM:ES:lh